IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 8221 of 1997

Between:

R. Venkataramaiah, S/o Ramachandraiah, 52 years, Special Class Contractor, R/o 24-308-2A-8, Military Colony, Nellore.

..... PETITIONER

AND

1 The Executive Engineer, Telugu Ganga Project, Venkatagiri, Nellore District.

2 Pay and Accounts Officer, Telugu Ganga Project, Srikalahasthi, Chittor District.

3 The Superintending Engineer, Telugu Ganga Project, Srikalahasthi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ, order or direction directing the respondents to deduct tax at source at the rate of 1% on the material component involved in Agreement NO.28-SB/94-95 entered into by the petitioner with Superintending Engineer, TG Project, Srikalahasti and not to deduct tax at source in respect of items relating to excavation of earth involved in Agreement NO.28-SB/94-95 entered into by the petitioner with

Superintending Engineer, Srikalahasti.

Counsel for the Petitioner: MR.K.SATYANARYANA MURTHY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following

ORDER: (per the Hon'ble Sri Justice Bilal Nazki.J)

The grievance of the petitioner was that tax was being proposed to be deducted at the rate of 4%, but, in terms of G.O.Ms.No.788, dated 21.09.1996, deduction of tax at source could be only at the rate of 1%, as the contract was regarding the 'earth work'.

While entertaining this writ petition, on 24.04.1997, this Court passed the following order.

> "The petitioner is entitled to receive the amount payable by him as per the bill after deducting the tax at 1% of the value of the material supplied, but no tax is levied or collected in respect of the earth work"

No counter has been filed.

Substantial relief has been granted to the petitioner at the time of entertaining this writ petition. Therefore, we do not think, at this point of time, any further orders are necessary.

The writ petition is accordingly disposed of. The Commercial Tax Department was not a party to this writ petition. Therefore, they will be given the rights to make assessments, if not made already, in the meanwhile. However, disposal of this writ petition should not be taken as an expression of opinion on the question as to what was the rate of deduction applicable to the petitioner. No

order as to costs.

(BILAL NAZKI. J)

---------- (S. ANANDA REDDY. J)

Date: 27.10.2004

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To

1 The Executive Engineer, Telugu Ganga Project, Venkatagiri, Nellore District.

2 Pay and Accounts Officer, Telugu Ganga Project, Srikalahasthi, Chittor District.

3 The Superintending Engineer, Telugu Ganga Project, Srikalahasthi.

4 Two CD copies.

5 Two CCs. to the Govt. Pleader for Irrigation, High Court of A.P.,

Hyderabad(OUT)

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